IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.417 OF 2005
IN
SUMMONS FOR JUDGMENT NO.140 OF 2004
IN
SUMMARY SUIT NO.2387 OF 2003

Abbot India Ltd.(erstwhile Knoll Pharmaceutical Ltd. .. Appellant

v/s.

R.M.P.S.O.M.C. Private Ltd. .. Respondent

Mr.R.J.Majra i/by Mr.M.G.Gawde for the appellant.

Mr.D.F. Sharma for the respondent.

CORAM : R.M. LODHA AND
J.P. DEVADHAR, JJ.

DATED : 14th June, 2005

P.C.

Heard.

2. Admit.

3. The advocate on record for the respondent waives service.

4. Printing of paper-books dispensed with.

5. Appeal is heard finally at this stage.

6. Paragraph 2 of the impugned order reads thus-

> "2. The only defence raised by Mr.Majra was that the suit is not maintainable as a summary suit on the basis of the balance confirmation letters. The submission is not well founded (see)"

7. From para 2 as aforenoted, it is not discernible as to on what basis the submission of the defendant that the suit was not maintainable as summary suit on the basis of the balance confirmation letters was held not well founded.

8. Confronted with this difficulty, the learned counsel for the respondent-original plaintiff agreed that the matter may be sent back to the learned trial Judge for fresh consideration and the disposal of the summons for judgment.

9. We, accordingly, set aside the order dated 25.1.2005. The summons for judgment No.140 of 2004 in summary suit No.2387 of 2003 is restored to file for fresh consideration and disposal in accordance with law. No costs.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)